

Public Utility Commission of Texas

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Memorandum

AUG 11 1992

MAIL BRANCH

To: Commissioner Marta Greytok
Chairman Robert Gee
Commissioner Karl Rábago
James Crouch, Executive Director

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AUG 11 1992

From: Rowland Curry, Telephone Division *RC for RLC*

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Date: July 15, 1992

RE: Project No. 11305 : Reply Comments to the FCC regarding RM-7990,
*Petition for Clarification and Modification of Pay-Per-Call Rules Filed
by national Association of Attorneys General to be Treated as a Petition
for Rule Making*

On April 20, 1992, the 900 Subcommittee of the Consumer Protection Committee of the National Association of Attorneys General (NAAG) petitioned the FCC for clarification and modification of the FCC's Report and Order, *In the Matter of Policies and Rules Concerning Interstate 900 Telecommunications Services*, adopted on September 26, 1991.

The NAAG advises that deceptive and misleading practices have occurred resulting in standard inward WATS (Wide Area Telecommunications Services), specifically 800 services, being used for the provision of pay-per-call services. The NAAG has requested the FCC modify and clarify the Pay-Per-Call Rule to include standard inward WATS services, and prohibit interstate carriers from providing inward WATS for pay-per-call services where consumers are billed through the use of tone generated technology, automatic number identification (ANI), or billing detail information. The FCC is treating this petition as a Petition for Rule Making and has assigned a reference number of RM-7990 to the proceeding.

The PUC staff has attached reply comments addressing RM-7990 for your consideration. Janis Ervin, Utilities Analyst, Telephone Division, is available for discussion of these comments.

I apologize for the late submission, however, comments on the proposed rule making were not received by staff until July 14, 1992.

cc:

Suzi Ray
Don Laub
David Featherston
Martin Wilson

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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AUG 11 1992

MAIL BRANCH

In the Matter of

*Petition for Clarification
and Modification of
Pay-Per-Call Rules Filed by
National Association of Attorneys
General to be Treated as a
Petition for Rule Making*

RM - 7990

REPLY COMMENTS OF
THE PUBLIC UTILITY COMMISSION OF TEXAS

The Public Utility Commission of Texas (Texas PUC) submits the following Reply Comments.

I. INTRODUCTION

In these Reply Comments we will address the matter of pay-per-call services provided via standard inward WATS (Wide Area Telecommunications Services).

The Texas PUC, having reviewed the Petition submitted by the National Association of Attorneys General (NAAG), considers the Rule Making in this proceeding to be in the public interest.

II. NAAG PETITION

Pay-Per-Call service has generally referred to telecommunications services which allow the simultaneous calling by large numbers of end users to a single "900/976" prefixed number whereby the calling party is charged for the call at a rate often higher than that charged for ordinary long distance calls for goods and/or services.

The introduction of pay-per-call services resulted in substantial consumer complaints due to the misleading and unfair practices of some pay-per-call providers. The FCC's Report and Order, *In the Matter of Policies and Rules Concerning Interstate 900 Telecommunications Services*, adopted on September 26, 1991, established rules which facilitated consumer choice and ensured fair practices in the provision of such services. However, consumer complaints are again on the rise because of a proliferation of pay-

per-call services soliciting calls by the use of standard inward WATS 800 services.

The NAAG made a thorough presentation of the most recent consumer complaints related to pay-per-call providers' use of 800 service in its petition. Many of the current complaints echo those received at the introduction of 900/976 services, particularly the lack of information provided the consumer regarding the cost, duration, and content of the service. In addition, the consumer is misled by the very nature of the 800 number because these numbers have been used extensively for years by government agencies and businesses for "free" information and services. Consumers are faced with the continuance of misleading and unfair practices transferred from 900/976 numbers to 800 numbers.

The Texas PUC is unaware of any existing or proposed inward service, other than 800 service, which can be used by a pay-per-call provider in a similar fashion. However, the Texas PUC submits that the language of the FCC's rule making should be such that should another inward service be introduced which might be similarly employed that it be included in the provisions decided therein.

III. DISCUSSION OF COMMENTS

The Texas PUC has reviewed Comments received by the FCC in RM-7990. Sprint, MCI, AT&T, and Pilgrim Telephone Inc. contend that the Pay-Per-Call Rule clearly applies to all pay-per-call services. However, the Texas PUC is persuaded that clarification of the Rule is required to prevent future misuses of inward services.

On the issue of modification of the Rule, the Texas PUC recognizes the importance of Southwestern Bell's Comments (SWB) regarding the prohibition of any service which obtains information used for the automatic generation of "collect calls" to the original calling party with the purpose of providing and billing for pay-per call service. The language suggested by the NAAG for this modification would seem inclusive enough to prohibit such "collect call" generation, however, the FCC may consider whether to add language to specifically address this concern.

The Texas PUC is not persuaded by Pilgrim's contention that the IXCs do not have a means of enforcement. Pay-Per-Call Rules adopted by the FCC and the states have effectively reduced incidences of fraud and misuse with no greater means of enforcement. The inclusion of inward services to the Pay-Per-Call Rule as a result of this rule making will have a similar effect.

IV. TEXAS PUC POSITION

The Texas PUC supports the NAAG's request that the FCC clarify and modify the Pay-Per-Call Report and Order to:


- 1) Clearly affirm that pay-per-call services using standard inward services, such as inward WATS 800 service, must comply with the rules of the Pay-Per-Call Report and Order, and

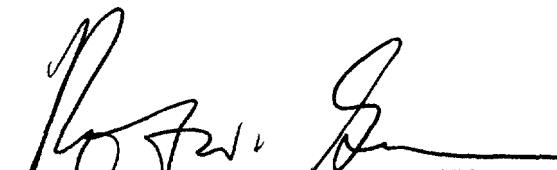
- 2) Prohibit interstate carriers from providing inward WATS 800 services for pay-per-call services where consumers are billed by the use of tone generated technology, automatic number identification, or billing detail information.

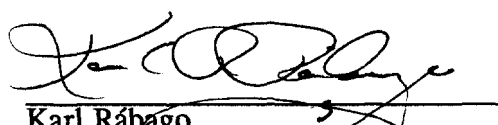
The language of item one above is suggested to accommodate the Texas PUC's concern regarding the potential introduction of another inward service which might be employed for similar purposes.

In addition, the Texas PUC opposes any FCC rules which may preclude it from adopting additional safeguards and/or more stringent rules regarding pay-per-call services.

Respectfully submitted,


Marta Greytok
Commissioner


Robert W. Gee
Chairman


Karl Rábago
Commissioner

PUBLIC UTILITY COMMISSION OF TEXAS

August 6, 1992